

Assembly Bill No. 2195

Passed the Assembly August 18, 2014

Chief Clerk of the Assembly

Passed the Senate August 11, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 256, 257, and 258 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2195, Achadjian. Juveniles: truancy.

Existing law provides that a juvenile hearing officer may hear and dispose of any case in which a minor is alleged to have committed any one of specified misdemeanors or infractions. In those cases, the juvenile court is known as the Informal Juvenile and Traffic Court. Existing law also provides that a minor may be adjudged to be a ward of the juvenile court on the basis of certain noncriminal conduct, including truancy, as specified.

This bill would authorize a juvenile hearing officer to hear cases in which a minor is alleged to come within the jurisdiction of the juvenile court on the basis of truancy, as specified. The bill would authorize a hearing before a juvenile hearing officer, referee, or judge to be conducted upon a written notice to appear for truancy, with the consent of the minor. The bill would prohibit a judge, referee, or juvenile hearing officer from proceeding with a hearing of a minor on the basis of truancy unless the court has been presented with evidence that the minor's school has undertaken certain actions to address the minor's truancy and the available record of previous attempts to address the minor's truancy. The bill would provide that a court in these cases may restrict the minor's driving privilege, order the minor to pay a fine of not more than \$50, and order the minor to perform community service. The bill would, among other things, authorize the judge, referee, or juvenile hearing officer to give the minor the opportunity to demonstrate improved attendance before imposing those orders.

The people of the State of California do enact as follows:

SECTION 1. Section 256 of the Welfare and Institutions Code is amended to read:

256. Subject to the orders of the juvenile court, a juvenile hearing officer may hear and dispose of any case in which a minor

under the age of 18 years as of the date of the alleged offense is charged with (1) any violation of the Vehicle Code, except Section 23136, 23140, 23152, or 23153 of that code, not declared to be a felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a violation of the Fish and Game Code not declared to be a felony, (4) a violation of any of the equipment provisions of the Harbors and Navigation Code or the vessel registration provisions of the Vehicle Code, (5) a violation of any provision of state or local law relating to traffic offenses, loitering or curfew, or evasion of fares on a public transportation system, as defined by Section 99211 of the Public Utilities Code, (6) a violation of Section 27176 of the Streets and Highways Code, (7) a violation of Section 640 or 640a of the Penal Code, (8) a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, (9) a violation of Section 33211.6 of the Public Resources Code, (10) a violation of Section 25658, 25658.5, 25661, or 25662 of the Business and Professions Code, (11) a violation of subdivision (f) of Section 647 of the Penal Code, (12) a misdemeanor violation of Section 594 of the Penal Code, involving defacing property with paint or any other liquid, (13) a violation of subdivision (b), (d), or (e) of Section 594.1 of the Penal Code, (14) a violation of subdivision (b) of Section 11357 of the Health and Safety Code, (15) any infraction, (16) any misdemeanor for which the minor is cited to appear by a probation officer pursuant to subdivision (f) of Section 660.5, or (17) a violation of subdivision (b) of Section 601 that is due to having four or more trancies, as described in Section 48260 of the Education Code, within one school year.

SEC. 2. Section 257 of the Welfare and Institutions Code is amended to read:

257. (a) (1) Except in the case of infraction violations, with the consent of the minor, a hearing before a juvenile hearing officer, or a hearing before a referee or a judge of the juvenile court, when the minor is charged with an offense as specified in this section, may be conducted upon an exact legible copy of a written notice given pursuant to Article 2 (commencing with Section 40500) of Chapter 2 of Division 17 or Section 41103 of the Vehicle Code, or an exact legible copy of a written notice given pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code when the offense charged is a violation listed

in Section 256, or an exact legible copy of a citation as set forth in subdivision (e) of Section 660.5, or an exact legible copy of the notice given pursuant to subdivision (d) of Section 601 when the minor is within the jurisdiction of the juvenile court pursuant to subdivision (b) of Section 601, in lieu of a petition as provided in Article 16 (commencing with Section 650).

(2) Notwithstanding any other law, in the case of infraction violations, consent of the minor is not required prior to conducting a hearing upon written notice to appear.

(b) Prior to the hearing, the judge, referee, or juvenile hearing officer may request the probation officer to commence a proceeding, as provided in Article 16 (commencing with Section 650), in lieu of a hearing in Informal Juvenile and Traffic Court.

SEC. 3. Section 258 of the Welfare and Institutions Code is amended to read:

258. (a) Upon a hearing conducted in accordance with Section 257, and upon either an admission by the minor of the commission of a violation charged, or a finding that the minor did in fact commit the violation, the judge, referee, or juvenile hearing officer may do any of the following:

(1) Reprimand the minor and take no further action.

(2) Direct that the probation officer undertake a program of supervision of the minor for a period not to exceed six months, in addition to or in place of the following orders.

(3) Order that the minor pay a fine up to the amount that an adult would pay for the same violation, unless the violation is otherwise specified within this section, in which case the fine shall not exceed two hundred fifty dollars (\$250). This fine may be levied in addition to or in place of the following orders and the court may waive any or all of this fine, if the minor is unable to pay. In determining the minor's ability to pay, the court may not consider the ability of the minor's family to pay.

(4) Subject to the minor's right to a restitution hearing, order that the minor pay restitution to the victim, in lieu of all or a portion of the fine specified in paragraph (3). The total dollar amount of the fine, restitution, and any program fees ordered pursuant to paragraph (9) may not exceed the maximum amount which may be ordered pursuant to paragraph (3). This paragraph may not be construed to limit the right to recover damages, less any amount actually paid in restitution, in a civil action.

(5) Order that the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges, that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

(6) In the case of a traffic related offense, order the minor to attend a licensed traffic school, or other court approved program of traffic school instruction pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5 of the Vehicle Code, to be completed by the juvenile within 60 days of the court order.

(7) Order that the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code if the violation involved an equipment violation.

(8) Order that the minor perform community service work in a public entity or any private nonprofit entity, for not more than 50 hours over a period of 60 days, during times other than his or her hours of school attendance or employment. Work performed pursuant to this paragraph may not exceed 30 hours during any 30-day period. The timeframes established by this paragraph may not be modified except in unusual cases where the interests of justice would best be served. When the order to work is made by a referee or a juvenile hearing officer, it shall be approved by a judge of the juvenile court.

For the purposes of this paragraph, a judge, referee, or juvenile hearing officer may not, without the consent of the minor, order the minor to perform work with a private nonprofit entity that is affiliated with any religion.

(9) In the case of a misdemeanor, order that the minor participate in and complete a counseling or educational program, or, if the offense involved a violation of a controlled substance law, a drug treatment program, if those programs are available. Any fees for participation shall be subject to the right to a hearing as the minor's ability to pay and may not, together with any fine or restitution order, exceed the maximum amount that may be ordered pursuant to paragraph (3).

(10) Require that the minor attend a school program without unexcused absence.

(11) If the offense is a misdemeanor committed between 10 p.m. and 6 a.m., require that the minor be at his or her legal residence at hours to be specified by the juvenile hearing officer between the hours of 10 p.m. and 6 a.m., except for a medical or other emergency, unless the minor is accompanied by his or her parent, guardian, or other person in charge of the minor. The maximum length of an order made pursuant to this paragraph shall be six months from the effective date of the order.

(12) Make any or all of the following orders with respect to a violation of the Fish and Game Code which is not charged as a felony:

(A) That the fishing or hunting license involved be suspended or restricted.

(B) That the minor work in a park or conservation area for a total of not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(C) That the minor forfeit, pursuant to Section 12157 of the Fish and Game Code, any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and which was used in committing the violation charged. The judge, referee, or juvenile hearing officer shall, if the minor committed an offense which is punishable under Section 12008 of the Fish and Game Code, order the device or apparatus forfeited pursuant to Section 12157 of the Fish and Game Code.

(13) If the violation charged is of an ordinance of a city, county, or local agency relating to loitering, curfew, or fare evasion on a public transportation system, as defined by Section 99211 of the Public Utilities Code, or is a violation of Section 640 or 640a of the Penal Code, make the order that the minor shall perform community service for a total time not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(b) If the minor is before the court on the basis of truancy, as described in subdivision (b) of Section 601, all of the following procedures and limitations shall apply:

(1) The judge, referee, or juvenile hearing officer shall not proceed with a hearing unless both of the following have been provided to the court:

(A) Evidence that the minor's school has undertaken the actions specified in subdivisions (a), (b), and (c) of Section 48264.5 of the Education Code. If the school district does not have an attendance review board, as described in Section 48321 of the Education Code, the minor's school is not required to provide evidence to the court of any actions the school has undertaken that demonstrate the intervention of a school attendance review board.

(B) The available record of previous attempts to address the minor's truancy.

(2) The court is encouraged to set the hearing outside of school hours, so as to avoid causing the minor to miss additional school time.

(3) Pursuant to paragraph (1) of subdivision (a) of Section 257, the minor and his or her parents shall be advised of the minor's right to refuse consent to a hearing conducted upon a written notice to appear.

(4) The minor's parents shall be permitted to participate in the hearing.

(5) The judge, referee, or juvenile hearing officer may continue the hearing to allow the minor the opportunity to demonstrate improved attendance before imposing any of the orders specified in paragraph (6). Upon demonstration of improved attendance, the court may dismiss the case.

(6) Upon a finding that the minor violated subdivision (b) of Section 601, the judge, referee, or juvenile hearing officer shall direct his or her orders at improving the minor's school attendance. The judge, referee, or juvenile hearing officer may do any of the following:

(A) Order the minor to perform community service work, as described in Section 48264.5 of the Education Code, which may be performed at the minor's school.

(B) Order the payment of a fine by the minor of not more than fifty dollars (\$50), for which a parent or legal guardian of the minor may be jointly liable. The fine described in this subparagraph shall not be subject to Section 1464 of the Penal Code or additional penalty pursuant to any other law. The minor, at his or her discretion, may perform community service, as described in subparagraph (A), in lieu of any fine imposed under this subparagraph.

(C) Order a combination of community service work described in subparagraph (A) and payment of a portion of the fine described in subparagraph (B).

(D) Restrict driving privileges in the manner set forth in paragraph (5) of subdivision (a). The minor may request removal of the driving restrictions if he or she provides proof of school attendance, high school graduation, GED completion, or enrollment in adult education, a community college, or a trade program. Any driving restriction shall be removed at the time the minor attains 18 years of age.

(c) (1) The judge, referee, or juvenile hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

(2) If a minor is before the judge, referee, or juvenile hearing officer on the basis of truancy, jurisdiction shall be terminated upon the minor attaining 18 years of age.

Approved _____, 2014

Governor